



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Paul Krutko

SUBJECT: See below

DATE: December 18, 2009

Approved

Date

12/18/09

COUNCIL DISTRICT: 6

SUBJECT: ADOPTION OF AN ORDINANCE TO DISESTABLISH THE WILLOW GLEN BUSINESS IMPROVEMENT DISTRICT AND DISCONTINUE THE LEVY OF ASSESSMENTS

RECOMMENDATION

Adopt an ordinance to disestablish the Willow Glen Business Improvement District pursuant to the Parking and Business Improvement Area Law and discontinue the levy of assessments.

OUTCOME

Approval of this action will result in the disestablishment of the Willow Glen Business Improvement District ("BID") upon the effective date of the ordinance and discontinue the collection of the assessed levy as of January 1, 2010.

BACKGROUND

The Willow Glen Business Improvement District ("BID") was established by Council in 1983 pursuant to the California Parking and Business Improvement Area Law ("BID Law") to promote the economic revitalization and physical maintenance of the Willow Glen business district. In 1984, the Council appointed the Willow Glen Business and Professional Association as the Advisory Board ("Advisory Board") for the BID, to advise the Council on the levy of assessments in the BID and the expenditure of revenues derived from the assessments. In 2008 the Willow Glen Business Association spearheaded a proposal to establish a new district known as a Community Benefit and Improvement District (CBID) which, if approved, would put the association in position to transition and provide different services from the existing Business Improvement District to the proposed Willow Glen CBID.

ANALYSIS

This year the City Council adopted the new CBID; therefore the Willow Glen Business Improvement District (WGBID) purpose will cease to exist after December 2009. In September 2009 the City was notified by the WGBA Executive Director that they would like to start the process of terminating the BID.

On December 15, 2009 the City Council adopted a Resolution of Intention to disestablish the BID and set the date and time of for the Public Hearing to adopt an Ordinance for January 12, 2009.

The WGBA has requested the BID billing stop on January 1, 2010. The BID would continue until the end of the fiscal year so that they can work with the City's Finance Department on any outstanding fees from business owners.

As such, upon adoption of the ordinances disestablishing the BID the City's Finance Department will stop billing new charges to businesses and commercial property owners whose bill cycles are for the period of January 2010 and thereafter. All existing charges that were due and payable will be resolved by June 2010.

EVALUATION AND FOLLOW-UP

California Streets and Highways Code section 36550(b) requires that the public hearing on the disestablishment be held not less than 20 or more than 30 days after the adoption of the Resolution of Intention.

The City Council's resolution of intent that was adopted on December 15, 2009 authorizes the City to conduct the public hearing on the proposed elimination of the assessed levy on January 12, 2010. Table 1 below illustrates the Disestablishment Process that the City has followed.

Table 1 - DISESTABLISHMENT OF A BUSINESS IMPROVEMENT DISTRICT (BID)

Meeting #1 - Resolution of Intention	Mail Resolution of Intention	Publish Resolution of Intention	Meeting #2 - Public Hearing and 1st Reading of Ordinance	Meeting #3 - 2nd Reading of Ordinance	Publish Notice of Disestablishment
12/15/2009	12/22/2009	1/5/2010	1/12/2010	1/26/2010	2/10/2010

Per S&H Code §36551(b), notice of the disestablishment was published in a newspaper within 15 days of adoption of the ordinance. According to §2 of the Agreement between City and Willow Glen Business and Professional Association, the Association must give 90 days prior written notice to terminate the Agreement.

Upon termination, all unexpended funds provided to Association by City and all tangible assets purchased with funds provided to Association by City shall be immediately returned to the City.

Per S&H Code §36551(a), upon disestablishment of the BID, any remaining revenues derived from the levy of assessments or sale of assets shall be refunded to the owners of the businesses applying the same method and basis that was used to calculate the levied assessments.

PUBLIC OUTREACH/INTEREST

The budget for Fiscal Year 2009-2010 was reviewed and approved by the Advisory Board on April 14, 2009.

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, Finance Department, Planning, Building and Code Enforcement, Budget Office, Willow Glen Business & Professional Association and the City Clerk's Office.

FISCAL/POLICY ALIGNMENT

The transition from and disestablishment of this BID to the CBID is in conformance with initiatives of the San Jose Economic Development Strategy, specifically related to the support and growth of local businesses. The new CBID provides the community with greater control of its service needs in order to develop retail to full potential, maximizing revenue impact and improving neighborhood livability.

COST SUMMARY/IMPLICATIONS

Adoption of the proposed ordinance disestablishing the BID does not impact City revenue. BID assessments are restricted for use exclusively by the BID. With the inception of the CBID, it is

Honorable Mayor and City Council

12/18/09

Subject: Approval of 2009/10 Budget Report – Willow Glen BID

Page 4 of 4

anticipated that a healthy business district will encourage growth of the retail community and consequently result in additional business tax and sales tax revenue for the City.

CEQA

CEQA: Exempt, File No.PP08-048



PAUL KRUTKO
Chief Development Officer

For questions, please contact Lee Wilcox , Downtown Coordinator, at (408) 535-8172

